

**APPROVED: 9/19/16**

**MINUTES OF THE  
CONSOLIDATED ZONING BOARD OF APPEALS  
OF THE  
TOWN OF HIGHLANDS AND VILLAGE OF HIGHLAND FALLS  
APRIL 18, 2016**

A Regular meeting of the Zoning Board of Appeals was held in the Town Hall, Highland Falls, New York, on Monday, April 18, 2016, at 7:00 P. M.

**THERE WERE PRESENT:**

**Board Members:**

Jack Jannarone, Chairman  
Ray Devereaux, Acting Chairman  
Tony Galu  
Joe McCormick

**Absent:**

Tim Donnery

**Alyse Terhune, Attorney, (Lewis & McKenna)**

**ALSO PRESENT:** None

MR. JANNARONE: I will open the Zoning Board of Appeals for April 18, 2016, and note that all members are present except Mr. Donnery. The first item on the agenda is to approve the Minutes for November and December of 2015 and February of 2016. Does anyone have any comments or corrections?

MR. MCCORMICK: I can't vote on November and December.

MR. JANNARONE: No he can't.

MS. TERHUNE: But three can.

MR. JANNARONE: Does anyone have any comments or corrections on the Minutes for November 16, 2015 and December 21, 2015?

**A motion was made to approve the Minutes of November 16, 2015 and December 21, 2015.**

**Motion: Mr. Galu      Seconded: Mr. Devereaux      Approved**  
(Mr. McCormick did not vote since his term on the Board began in 2016).

MR. JANNARONE: Are there any comments or corrections on the Minutes for February 16, 2016?

**A motion was made to approve the Minutes of February 16, 2016.**

**Motion: Mr. McCormick      Seconded: Mr. Galu      Approved**

**Mennite, 9 Dale Avenue, Highland Falls, NY application. Not Present**

MR. JANNARONE: In December, Mr. Mennite came before the Board to get an opinion on whether he needed a use variance or not. Alyse reviewed it and her opinion is that he does in fact, need a use variance. If that were granted, he would need a number of area variances as well.

MR. GALU: I tried to get in touch with him. He has two homes, one here and one upstate. I don't know if, because he is retired now, he is spending more time upstate.

MR. JANNARONE: Alyse researched it and thinks he needs a use variance. What we need to do is make a motion to either agree or disagree with her opinion that he needs a use variance.

MS. TERHUNE: The Interpretation is that it would require a use variance. He is in the R-5 Zone. It allows a two-family detached dwelling. Theoretically, he could turn the upstairs of his house, if he has two stories, I don't really know, into another dwelling. He could do that. But there is nothing in the Code that allows him to create an apartment above a garage in a totally separate detached building. That is my interpretation.

MR. McCORMICK: There is no square footage and there is no parking.

MR. DEVEREAUX: All of that.

MR. JANNARONE: That would be area variances. But just the use variance.

MR. McCORMICK: I agree.

**A motion was made that the Board's Interpretation is that a Use Variance would be required for this project.**

**Motion: Mr. Devereaux      Seconded: Mr. McCormick      Approved**

MS. TERHUNE: So I can draft an Interpretation based on my memorandum saying that he needs a Use Variance for the following reasons. We can put that in the file and send him a copy. If the Board wishes, I will go on to say that his options are: To try to get the Use Variance, in which case there is the bar with a very high standard. He would have to do all these things, and if he got the Use Variance, he would also need multiple substantial area variances. I think the idea here is to quickly let him know he needs the Use Variance, that's the Interpretation. He can either just drop it, or he can come before the Board and actually seek the Use Variance. It could possibly be a waste of time.

MR. JANNARONE: And a waste of money.

MR. DEVEREAUX: Like tonight, was a waste of our time, and I resent it. He is not here. I think we should just kill the thing. That is what I would do, if it were legal.

MS. TERHUNE: He hasn't formally withdrawn his request for an Interpretation. Right?

MR. JANNARONE: Right.

MS. TERHUNE: He has missed the last two meetings and the Board has determined to act on his request.

MR. JANNARONE: Three meetings, now.

MS. TERHUNE: Has it been three meetings?

MR. DEVEREAUX: Why can't we act on it now; the way it is?

MS. TERHUNE: He has asked for an Interpretation and you have granted him one.

MR. DEVEREAUX: I know the Use Variance, but address the area variances. On that basis alone, it seems to me we can kill it.

MS. TERHUNE: I think the application before you is for an Interpretation.

MR. DEVEREAUX: I have a question, what does it cost him to get an Interpretation?

MR. JANNARONE: \$75.00.

MS. TERHUNE: He is supposed to pay for my time.

MR. JANNARONE: There are two things, he has to either pay \$75.00 for the Interpretation or \$250.00 for the Variance, plus he has an escrow account to pay for her time. He has two pots of money and he is going to lose a lot of money. I wish he would take a hint.

MR. McCORMICK: Is there money in that account?

MR. JANNARONE: Yes.

MS. TERHUNE: I think at this point, once he gets the bill, and he sees that he has paid for an Interpretation, I seriously doubt that he will go forward. But he can if he wants.

MR. GALU: We can't grant it to him, because everybody with a detached garage is going to want to add an apartment.

MS. TERHUNE: He definitely asked for an Interpretation? It doesn't really say that here.

MR. DEVEREAUX: To be honest, at the meeting that he was supposed to be here, and I had this from Alyse, which was sort of a preliminary, I had a comment on it to call Alyse to discuss. I was going to talk with him.

MR. JANNARONE: But you can't.

MS. TERHUNE: You shouldn't.

MR. JANNARONE: In the December minutes, it says he came to us in December and we decided rather than act on the area variances that he had here, we would do an Interpretation. That is where it was left in December. We have done the Interpretation, we have Alyse's opinion, we have a Resolution saying that he needs a Use Variance, and she will draft up the notice and send it to him.

MS. TERHUNE: I will provide it to you to sign, and it should be given to him so he knows. If he had just withdrawn it, he would have saved whatever he is going to spend on me to draft this Resolution. But it is important to have it either withdrawn or some kind of action taken and recorded.

MR. DEVEREAUX: There is no way legally that we can kill it. If he doesn't come to the next meeting, as a for instance, it can't go on forever.

MS. TERHUNE: At this point it is closed. The Resolution will say that this Board will take no further action.

MR. McCORMICK: That should end it, unless he wants to proceed. Attendance should then be required at the next meeting.

MS. TERHUNE: Many municipalities face this, where someone puts in an application and then they just disappear. It's never withdrawn and in some cases, municipalities have changed their Code, to say that if there is no appearance by the applicant within so much time, the application is considered withdrawn. That means that if you want to come back before the Board and get on the agenda, you have to replenish your escrow and pay another fee.

MR. DEVEREAUX: There should be a notation that the Building Inspector should propose something to the Town Board to modify it in accordance with what you just said.

MS. TERHUNE: That would be a fairly simple modification. But you have to change the local law and you have to write that up.

MR. McCORMICK: Have a public hearing.

MS. TERHUNE: Now you are paying all of that. If it happens a lot, it is an issue. If it happens once every two or three years, it is not so much an issue.

MR. JANNARONE: This is the only time since I have been here.

MS. TERHUNE: In Tuxedo it actually happens quite a bit. They are redoing their Zoning Law and they are going to include that kind of provision. They also have nothing that, and you don't have anything here either, if you have a site plan, it just goes forever. It just never gets stale.

MR. McCORMICK: They have a lot of work over there with that developer.

MS. TERHUNE: Yes.

MR. JANNARONE: Any other business?

**At 7:15 P. M., a motion was made to adjourn the meeting.**

**Motion: Mr. McCormick    Seconded: Mr. Devereaux    Approved**

Respectfully submitted,

Fran DeWitt  
Recording Secretary

**The next Consolidated Zoning Board of Appeals meeting is  
Monday, May 18, 2016**